

GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

MA&UD Dept. – Nellore Municipal Corporation – Allegations against Smt. P. Sailaja Reddy, Mayor, Nellore Municipal Corporation – Removal from the office of Mayor for willful omission in carrying out the provisions of the Act – Notification – Orders – Issued.

Municipal Administration & Urban Development (Elec.II) Department

G.O.Ms.No. 128

Dated: 18.02.2009

Read the following:

1. From the C&DMA Lr.No.9167 /2008 /Elec.1, Dt: 09.05.2008
2. From Joint Director, Office of the C&DMA, Lr.Roc.No.1/Nellore/2008, Dated 31.03.2008.
2. From Joint Director, O/o the C&DMA, Letter Dated 20.05.2008.
3. Govt. Memo.No.6929/Elec.II/2008, Dated 13.06.2008.
4. Govt. Memo.No.6929/Elec.II/2008, Dated 02.12.2008.
5. From Smt. P. Sailaja Reddy, Mayor, Nellore Municipal Corporation, Explanation Dated 09.01.2009.

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ORDER:

Smt. P. Sailaja Reddy is holding the office of Mayor, Nellore Municipal Corporation with effect from 30.09.2005. It has been brought to the notice of the Government that Smt. P. Sailaja Reddy, Mayor, Nellore Municipal Corporation has willfully omitted to carryout the provisions of Andhra Pradesh Municipal Corporation Act 1994 read with Greater Hyderabad Municipal Corporation Act, 1955 and abused her position and powers vested with her. The Government have got the matter enquired into by deputing Joint Director of Municipal Administration to Nellore Municipal Corporation. The Joint Director submitted two Enquiry Reports in the matter in the reference second & third read above.

2. Based on the report of the Joint Director of Municipal Administration, Government have issued a Notice in the reference fourth read above to Smt. P. Sailaja Reddy, Mayor, Nellore Municipal Corporation to Show Cause as to why she shall not be removed from the office of the Mayor, Nellore Municipal Corporation for the following reasons.

1. An amount of Rs.4.50 crores under Cyclone Relief Fund has been sanctioned during March 2006 to the Nellore Municipal Corporation towards restoration of damages caused due to Cyclone in October 2005, under Hon'ble CM's assurance. In spite of knowing that the Municipal Commissioner has already called for tenders through online and those works will commence from 04.02.2008, the Mayor has addressed a letter to the Commissioner & Director of Municipal Administration stating that it is proposed to conduct urgent council meeting on 31.01.2008 to identify the works and requested to issue instructions to the Commissioner, Nellore Municipal Corporation, to stop the said works and cancel the tenders. The Mayor has adjourned the urgent council meeting to be held on 31.01.2008 on the pretext that Commissioner is on leave. The Grant was sanctioned during March 2006 and the Mayor addressed the C&DMA on 31.01.2008 to cancel the tenders already called for. From this it is understood that the Mayor has taken 1 years 10 months time to identify the works which are to be resorted on war-footing basis. This clearly shows that the Mayor has no interest in public service and obstructing the developmental activities of the Corporation.

2. An amount of Rs.381.59 lakhs was sanctioned under 12th Finance Commission Grant to Nellore Municipal Corporation in three installments, only an amount of Rs.92.00 lakhs was utilized and the remaining amount has not yet been utilized, which was sanctioned for maintenance of good sanitation and public health in the corporations once keeping the health hazards in view. The Mayor is responsible for the abnormal delay in approving the Action Plan for

spending the balance amount of Rs.289.59 lakhs which is remained as unspent. Thus, the Mayor has deliberately violated the lawful orders of the Government.

3. The Mayor has taken the file bearing Roc.No.G1/3314/921 directly from the staff in February 2007 and kept the same with her till today. This file deals with the layout L.P.No.2/94 in Sy.Nos.1305 & 1306 at Haranathpuram belonging to Sri Pulimi Venkata Reddy, Sri P Malikarjuna Reddy who were relation of the Mayor. The Mayor is not supposed to call for files directly from the staff without the notice of the Commissioner and at the same time, if she wants to verify or know the facts, a note has to be sent to the Commissioner for obtaining the same. Hence the Mayor has misused her official position.

4. The Mayor herself prepared subjects for the Council Meeting instead of Secretary, which is irregular, thereby contravened Section 88(i) of HMC Act.

5. On the request of Sri K Sudhakar on 22.01.2007, the Mayor has given in anticipation approval in file Roc.No.4446/2006/G1 pertaining to conversion of residential area into commercial area, without the recommendation of the office. Generally, in anticipation orders will be obtained in emergency circumstances only. There is no provision in the HMC Act for approval of subjects by the Mayor in anticipation of the General Body Council Meeting. Further the issue of change of land use is not at all an urgent issue. This clearly shows that she has abused her official power which led to dislocation of administration.

6. The Mayor has adjourned the urgent meeting on 31.01.2008 on the ground that the Commissioner has not attended the meeting, though the In-charge Commissioner has attended the Meeting. As the council Meetings are not taking place regularly and periodically, the development is hampered due to willful act of the Mayor.

7. That the Mayor has approved two identical subjects at S.No.14 & 20 in the Agenda of the Council Meeting held on 08.10.2007, relating to conversion of land use from residential use to commercial use, in anticipation of the approval of the Council, thereby abused and misused her official position, by acting as per will and wishes ignoring the statutory provisions.

8. Though it has been brought to the notice of the Mayor that 49 important subjects to be transacted by the Council are pending for disposal by the Council, she has not taken action to convene Council Meetings for dispatch of business from time to time. This clearly establishes her failure in discharging her legitimate duties as development is held up for want of council resolutions.

3. She was directed to submit her explanation if any, within (7) days from the date of receipt of the said notice. Aggrieved by the above Show Cause Notice, the Mayor, Nellore Municipal Corporation has filed W.P.No.12813/08 in the Hon'ble High Court and the Hon'ble High Court, in its final order dated 07.11.2008 directed to furnish copies of Enquiry Reports to the petitioner within a period of two weeks from the date of judgment and on receipt thereon the petitioner shall file necessary explanations within a period of two weeks and on receipt of explanation it shall be open for the Government to pass appropriate orders in accordance with law.

4. In pursuance of the above orders of the Hon'ble High Court, Government in memo dated 20.11.2008 communicated copies of the two Enquiry Reports and other relevant documents to the Mayor, Nellore Municipal Corporation and directed her to submit her explanation within a period of two weeks as directed by the Hon'ble High Court. Later she has been granted personnel hearing on 29.01.2009.

5. In the reference seventh read above Smt. P. Sailaja Reddy, Mayor Nellore Municipal Corporation has submitted her explanation to the Show Cause Notice issued to her. The contents of the explanation offered by the Mayor are as follows:

On allegation no.1 she has submitted that calling for tenders, finalization and other related procedure is the duty of the Commissioner only. As the Mayor she do not have any jurisdiction over this matter. If, the works are not executed even after finalization of tenders, it is the lapse of the Commissioner but not the Mayor. She has also stated that in her letter dated 31.01..2008, she has objected to the nature of works only, but not the taking up of works. She has requested the Government in her letter above to recall the tenders, but not cancel the works once for all.

On allegation no.2 she has submitted that as per the Act, any work that exceeds the value of Rs.10.00 lakhs shall be approved by the Standing Committee only. But in spite of her numerous representations, elections to the Standing Committee were not conducted by the Commissioner.

On allegation no.3 she has submitted that she never called for any file directly from the staff. The layout owners Sri Pulmi Venkata Reddy and Sri P Mallikarjuna Reddy are not her relatives.

On allegation no.4 she has submitted that the subjects for Council meeting are prepared by the Secretary and approved by the Commissioner only and the same is placed before the Mayor for agenda circulation after Commissioner's approval. As Mayor she has the authority to sign the agenda notice.

On allegation no.5 she has submitted that, as Mayor she has the power to give in-anticipation approvals for important matters. With regard to the file Roc.No.4446/2006/G1 pertaining to the conversion of the residential area into commercial area that belongs to Sri K Sudhakar as mentioned in the Show Cause Notice, she has made in-anticipation approval in consideration of the request from the public. On several occasion's keeping in mind the urgency involved, as a Mayor interested in the welfare and wellbeing of the residents of the Corporation, she has given in-anticipation sanctions and the same was ratified by the Council.

On allegation no.6 she has submitted that, for the meeting on 31.01.2008, except the in-charge Commissioner, all other departmental heads, officers and staff of the Municipal Corporation purposefully abstained from the meeting. Majority Corporators, who have attended the meeting, objected to the absence of the officers and demanded the adjournment, as they could not get any answers to their queries of public interest. At the meeting, she cannot ignore the majority member's opinion. Hence, she has adjourned the above said meeting and clearly recorded the reasons for the adjournment in the minutes.

On allegation no.7 she has submitted that, as mentioned in the answer to Charge No.5, giving in- anticipation approval is a prerogative of the Mayor. The Act clearly vests this power with the Mayor. Moreover, these two subjects were finally approved by the council when they were placed before it. The council has not objected for the same. If there is no objection from the council, it is construed that the subjects are in the interest of the Corporation.

On allegation no.8 she has submitted that, there is no stipulation of time limit for council meetings and number of subjects for each meeting. Council meetings are conducted whenever there are important subjects to transact. Pendency of 49 subjects is not unusual. Some times each council meeting transact more than 100 subjects, and on an average each council meeting shall have about 50 subjects. Though there are 49 subjects pending for council resolutions, one cannot classify that all are important subjects, and development is held up for want of council resolutions. It is a prerogative of the Mayor to conduct the council meetings as and when necessary.

6. On examination of the explanation of the Mayor, Government have found that allegation no.1 to 3 are not established. In respect of allegation no.4, it is observed that as per Section 88 (i) of the GHMC Act, 1955, every notice of the meeting of the corporation and the business to be transacted thereat shall be given by the Municipal Secretary but the Mayor has herself given notice of the meetings and the agenda for the meetings in violation of the provisions of Section 88 (i) of GHMC Act, 1955. In respect of allegation no.5, it is found that the Mayor has passed orders to put up in-anticipation orders which is illegal as the Mayor does not have powers to accord, sanction in anticipation of the approval of the corporation in the GHMC Act, 1955 and thereby abused her power. In respect of allegation no.6, it is found that, as per Section 88 (m) of the Act any meeting may be adjourned with the consent of the majority of members present. As seen from the Minutes book, the meeting was adjourned for the reason that the regular Commissioner and the other staff have not attended the meeting. Hence, the contention of the Mayor that majority of the Corporators demanded for the adjournment of the meeting and honoring the majority opinion, she has adjourned the meeting and recorded the reasons for the adjournment in the minutes book is not correct. In respect of allegation no.7, it is found that the Mayor has endorsed to put up in-anticipation orders on the petition filed by Sri G Srinivasulu Reddy for conversion of land use. As per the provisions of the Act, Mayor does not have powers of according any sanction in anticipation of the approval of the Council. In respect of allegation no.8, it is observed that, as per Section 88 (c) of GHMC Act, 1955, the date, time and place of the meeting of the corporation shall be fixed by the Mayor. As seen from the Minutes Book, no ordinary meeting was conducted from 09.10.2007 to 22.06.2008. Thus, the Mayor has failed to implement the above provisions of the Act.

7. She has also stated in the Show Cause Notice that her reply to the Show Cause Notice is not exhaustive as she was not furnished with some original records to submit her explanation. On the above request of the Mayor, Government in memo dated 23.01.2009 requested her to specify the records required by her during the personnel hearing on 29.01.2009. But in the personnel hearing held on 29.01.2009 she failed to specify the records.

8. Further, Government observe that on the orders of the Hon'ble High Court both the Enquiry Reports were furnished to her and non-recording of her statement by the Enquiry Officer is not relevant at this time as Enquiry was already over. The other contents are not worthy of consideration having regard to the allegations proved against her. Hence, Government reject the subsequent representation filed by her on 31.01.2009.

9. In the light of the above conclusions particularly in respect of allegations which are serious and grave since non-convening of General Body meetings continuously for about eight months has led to break-down in the functioning of administration in the Corporation and hampered the progress of developmental works, Government considered that the Mayor failed in discharging her legitimate duties and responsibilities vested with her under the Act and Rules. Therefore, Government have decided to remove Smt. P. Sailaja Reddy from the office of the Mayor, Nellore Municipal Corporation for willfully omitting to carryout the provisions of the Act..

10. The following notification shall be published in the Extra-ordinary issue of A.P. Gazette **Dated 19.02.2009**.

11. The Commissioner Printing, Stationary & Stores Purchase, A.P. Hyderabad shall furnish 50 copies of the Gazette Notification to the Government.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**Dr. C.V.S.K. SARMA,
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The Commissioner of Pringting, Stores Purchase and Stationery, A.P, Hyderabad.
Smt P. Sailaja Reddy,
The Mayor, Nellore Municipal Corporation
The Commissioner and Director of Municipal Administration, Hyderabad

The Secretary, State Election Commission, Budha Bhavan, Hyderabad.
 The Commissioner, Nellore Municipal Corporation, Nellore
 The Collector and District Magistrate, Nellore.

// FORWARDED :: BY ORDER //

SECTION OFFICER

NOTIFICATION

In exercise of the powers conferred by Section 679 (B)(1) of Greater Hyderabad Municipal Corporation Act, 1955, read with Section 14 of the Andhra Pradesh Municipal Corporation Act, 1994, Government hereby remove Smt. P. Sailaja Reddy, from the Office of the Mayor, Nellore Municipal Corporation with immediate effect, for the following reasons:

1. The Mayor has herself given notice of the meetings and agenda for the meetings dated 27.12.2006, 22.08.2007, 08.10.2007 and 23.06.2008 in violation of the provisions of Section 88 (i) of the said Act of 1955 as the above section stipulates that every notice of meeting of the corporation and business to be transacted shall be given by the Municipal Secretary.
2. The Mayor has given in-anticipation approval on the applications itself submitted by one Sri K Sudhakar and Sri G Srinivasulu Reddy for conversion of land use from residential area in to commercial area contrary to the provision in the said Acts
3. As per Section 88 (c) of the said Act of 1955, the date, time and place of the meeting of the corporation shall be fixed by the Mayor. But the Mayor has not conducted any ordinary meeting from 09.10.2007 to 22.06.2008 though several items were brought to her notice which has adversely affected the functioning of administration in the corporation and hampered the progress of many developmental works. It is the failure of the Mayor in discharging her legitimate duties and responsibilities.
4. The Mayor has adjourned the meeting convened on 31.01.2008 without obtaining the consent of the majority of the members present as stipulated in Section 88 (m) of Greater Hyderabad Municipal Corporation Act, 1955.

**Dr. C.V.S.K. SARMA,
 PRINCIPAL SECRETARY TO GOVERNMENT**

SECTION OFFICER